



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 11
4035 University Pkwy Ste 200
Winston Salem, NC 27106-3275

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November 23, 2021

Jennifer A. Kearns, Paralegal Specialist
United States Postal Service
Law Department - NLRB Unit
1720 Market Street, Room 2400
Saint Louis, MO 63155-9948

SENT VIA EMAIL ONLY: Jennifer.a.kearns@usps.gov

Re: United States Postal Service
Case 10-CA-285902

Dear Ms. Kearns:

I am writing this letter to advise you that it is now necessary for me to take evidence from your client regarding the allegations raised in the investigation of the above-captioned matter. As explained below, I am requesting to take affidavits on or before Friday, December 3, 2021 with regard to certain allegations in this case.

Allegations: The allegations for which I am seeking your evidence are as follows. The Charging Party Union, NALC, Branch 2794 is alleging that the United States Postal Service, by (b) (6), (b) (7)(C) violated Section 8(a)(1) and (3) of the Act by: 1) interrogating employee (b) (6), (b) (7)(C) about (b) (6), (b) (7)(C) union activities during a pre-disciplinary interview (PDI) on (b) (6), (b) (7)(C), 2021; 2) violating (b) (6), (b) (7)(C) Weingarten rights during that PDI on (b) (6), (b) (7)(C), 2021 by denying (b) (6), (b) (7)(C) request to privately consult with (b) (6), (b) (7)(C) prior to the (b) (6), (b) (7)(C) PDI; and 3) issuing employee (b) (6), (b) (7)(C) a Letter of Warning (LOW) dated (b) (6), (b) (7)(C), 2021 in retaliation for (b) (6), (b) (7)(C) union activities, namely, (b) (6), (b) (7)(C) prior grievance-filing activities and/or (b) (6), (b) (7)(C) prior requests to see a union steward, including on or around (b) (6), (b) (7)(C), 2021.

Board Affidavits: I am requesting to take affidavits from (b) (6), (b) (7)(C) and any other individuals you believe have information relevant to the investigation of the above-captioned matter. Please be advised that the failure to present representatives who would appear to have information relevant to the investigation of this matter, for the purposes of my taking sworn statements from them, constitutes less than complete cooperation in the investigation of the charge. Please contact me by Friday, December 3, 2021 to schedule these affidavits.

Documents and Information: Please provide the following documents and information, along with any and all other evidence you deem to be relevant to the case:

1. Although the Region has not decided at this time whether deferral to the parties' grievance procedure is appropriate with regard to (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) LOW, please state whether the Postal Service would be willing to defer the 8(a)(3) allegation to the parties' grievance process and if so, sign, date and return the attached *Collyer* deferral form. Please also proceed to respond to the following items in your response to this letter as well.
2. Fully respond to the above-described allegations, including copies of all contractual provisions, Board Case Law and any other sources of authority on which the Employer relies in support of its position.
3. State ALL reasons why the Postal Service issued a LOW to (b) (6), (b) (7)(C) on (b) (6), (b) (7)(C) 2021, and who decided to issue the LOW and when, including copies of all underlying, relevant documents on which the Employer relied in issuing the discipline, including discipline authorization/approval forms, clock rings, internal correspondence/paperwork, contract/manual provisions, etc.
4. State whether employees at the Landis installation have been disciplined/discharged for the same or similar reasons as (b) (6), (b) (7)(C) and if so, provide copies of all such examples and underlying paperwork/records showing the reasons for the discipline, etc.
5. Confirm whether (b) (6), (b) (7)(C) requested to consult with (b) (6), (b) (7)(C) prior to (b) (6), (b) (7)(C) PDI on (b) (6), (b) (7)(C), 2021 and if so, whether (b) (6), (b) (7)(C) denied such request and if so, state ALL reasons why.
6. Provide a copy of (b) (6), (b) (7)(C) notes from (b) (6), (b) (7)(C) PDI on (b) (6), (b) (7)(C), 2021.
7. Confirm whether (b) (6), (b) (7)(C) asked (b) (6), (b) (7)(C) about (b) (6), (b) (7)(C) request to see (b) (6), (b) (7)(C) on or about (b) (6), (b) (7)(C) 2021 during (b) (6), (b) (7)(C) PDI, and if so, fully explain why and how this was relevant to the matter being investigated during the PDI.
8. Any additional information the Employer wishes to provide will be considered as well.

Date for Submitting Evidence: To resolve this matter as expeditiously as possible, you must provide your evidence and position in this matter by close of business on **Friday, December 3, 2021**. If you are willing to allow me to take affidavits, please contact me by that date to schedule a time to take affidavits. Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted.

Please contact me at your earliest convenience by telephone, (336)582-7129, or e-mail, sarah.schafhauser@nrlb.gov, so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Very truly yours,

/s/ Sarah B. Schafhauser

Sarah B. Schafhauser
Field Attorney

(To be printed and posted on official Board notice form)

SECTION 7 OF THE NATIONAL LABOR RELATIONS ACT GIVES YOU THE RIGHT TO:

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT interfere with, restrain, or coerce you in the exercise of the above rights.

The **National Association of Letter Carriers, AFL-CIO, together with its Local 2794**, is the exclusive collective-bargaining representative of those of you at the Landis Post Office located at 230 E. Ryder Avenue, Landis, NC 28088 in the following bargaining unit:

City Letter Carriers, excluding managerial and supervisory personnel, professional employees, employees engaged in personnel work in other than a purely non-confidential clerical capacity, security guards as defined in Public Law 91-375, 1201(2), all Postal Inspection Service employees, employees in the supplemental workforce as defined in Article 7, rural letter carriers, mail handlers, maintenance employees, special delivery messengers, motor vehicle employees, and postal clerks.

WE WILL NOT refuse to allow you to consult with your union representative before the investigatory interview starts.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of your rights under the National Labor Relations Act.

United States Postal Service

(b) (6), (b) (7)(C)

(Employer)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Dated: Feb 28, 2022 By:

(b) (6), (b) (7)(C)

(Representative)

(Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-844-762-NLRB (1-844-762-6572). Hearing impaired callers who wish to speak to an Agency representative should contact the

Federal Relay Service (link is external) by visiting its website at <https://www.federalrelay.us/tty> (link is external), calling one of its toll free numbers and asking its Communications Assistant to call our toll free number at 1-844-762-NLRB.

4035 University Pkwy
Suite 200
Winston-Salem, NC 27106

Telephone: (336) 631-5201
Hours of Operation: 8 a.m. to 4:30 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Centralized Compliance Unit at complianceunit@nrlb.gov.



NOTICE TO EMPLOYEES



POSTED PURSUANT TO AN AGREEMENT BETWEEN THE UNITED STATES POSTAL SERVICE AND THE NATIONAL LABOR RELATIONS BOARD

AN AGENCY OF THE UNITED STATES GOVERNMENT

PLEASE TAKE NOTICE that on March 5, 2008, the NATIONAL LABOR RELATIONS BOARD and the UNITED STATES POSTAL SERVICE entered into a Joint Settlement Stipulation creating a Nationwide Program describing the handling of unfair labor practice charges filed with the Board concerning employee rights to meaningful union representation in investigatory interviews, otherwise known as *Weingarten* rights.

The purpose of this agreement is to establish a procedure for achieving a meaningful remedy for situations in which the Postal Service has allegedly violated employees' *Weingarten* rights. If the National Labor Relations Board determines that a *prima facie* case has been made that the Postal Service conducted an investigatory interview in which an employee's *Weingarten* rights were violated, the Postal Service will, upon request, conduct the interview over in full accordance with *Weingarten*, as set forth more fully below. To allow the parties to fine-tune the program, it was initially set up as a six-month trial period. On January 26, 2009, the parties agreed to modify this trial program and to extend it an additional six months. If the parties agree that the modified trial program is effective, it may be continued indefinitely and/or incorporated into a federal court order.

THE POSTAL SERVICE AGREES THAT its employees have the following rights, commonly known as *Weingarten* rights:

1. An employee has the right, upon request, to representation by a union steward in any investigatory interview - that is, an interview that the employee reasonably believes could result in discipline.
2. An employee facing an investigatory interview has the right to meet with his or her union steward in advance of the interview to prepare for it.
3. At the investigatory interview, the employee is entitled to the union steward's assistance. The Postal Service violates the employee's rights if it refuses to allow the employee's steward to speak or tries to restrict the steward's role to that of a passive observer.
4. Employees may exercise any or all of the rights listed above without reprisals of any kind from the Postal Service.

THE POSTAL SERVICE AGREES to the following:

1. **Interviews that resulted in discipline of the employee:** In any case in which the National Labor Relations Board makes a *prima facie* determination that the Postal Service has violated an employee's *Weingarten* rights, and the interview resulted in discipline, the Postal Service shall
 - Notify the relevant union and the affected employee that they have 30 days in which to request that the Postal Service conduct the investigatory interview over, this time fully respecting the employee's *Weingarten* rights to effective union representation.
 - If a new interview is requested, the Postal Service will conduct it within 60 days from when it received notice of the finding of violation from the National Labor Relations Board, will fully respect the employee's *Weingarten* rights, and will exclude from consideration any information obtained in the original interview, notifying the employee in writing of this exclusion.
 - If after the new, legally proper interview the Postal Service concludes that the original discipline was not warranted, either in whole or in part, then the Postal Service will take appropriate corrective action, including making whole any employee who suffered monetary loss because of the discipline.
 - If, on the other hand, the Postal Service concludes after the new interview that the original discipline was warranted, the discipline shall stand. The re-interview cannot result in an increase of the discipline originally imposed (or modified by a grievance or other challenge), *except* if the investigation uncovers misconduct or unsatisfactory job performance by the employee wholly unrelated to the matters upon which the original discipline was based.

2. **Interviews that did not result in discipline of the employee:** In any case in which the National Labor Relations Board makes a *prima facie* determination that the Postal Service has violated an employee's *Weingarten* rights, and the interview did *not* result in discipline, the Postal Service shall

- Notify the employee, in writing, that none of the information from the first interview will be used against the employee; or
- Notify the employee and the affected union that although no discipline was imposed, the Postal Service will conduct a new interview, if it receives a request from either within thirty (30) days of the notification.

Whenever a second interview is conducted: Upon the request of the affected employee, and with the written consent of the relevant labor organization, the Postal Service shall appoint a supervisor to conduct the second interview who was not involved in, and did not attend, the first interview. The only information about the first interview that will be available to the supervisor conducting the second interview prior to the interview will be a written summary of the issues involved and the discipline imposed after the first interview, and copies of that written summary will be supplied to the affected employee and the relevant labor organization before the second interview.

Before the second interview takes place, the Postal Service will give the supervisor conducting it instructions on how to conduct the interview giving full respect to the employee's *Weingarten* rights.

(b) (6), (b) (7)(C)
U.S. Postal Service
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
(Title)
JL. 28, 2022

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov.

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